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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,561	01/29/2002	Johnson Chung	A8275	4657
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SUGHRUE MION, PLLC			EXAMINER	
2100 Pennsylvania Avenue, NW Washington, DC 20037-3213			LILLING, HERBERT J	
	•		ART UNIT	PAPER NUMBER
			1651	
		DATE MAILED: 08/09/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Application No.   Application No.   Applicant(s)   CHUNG ET AL.							
Examiner   HERBERT J LILLING   1651   1551	and .	Application No.	Applicant(s)				
HERBERT J LILLING   1651	Office Action Summany	·					
The MAILING DATE of this c mmunication appears on the cover sheet with the c respondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of tem empt be available used the provisions of 3 CZF 1.136(a). In no event, however, may a naply be timely filed to the provision of the provision of 3 CZF 1.136(a). In no event, however, may a naply be timely filed to the provision of the	Office Action Summary						
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2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)   is/are pending in the application.  4a) Of the above claim(s)   is/are withdrawn from consideration.  5)   Claim(s)   is/are allowed.  6)   Claim(s)   is/are rejected.  7)   Claim(s)   is/are objected to.  8)   Claim(s)   is/are objected to perfect on and/or election requirement.  Application Papers  9)   The specification is objected to by the Examiner.  10)   The drawing(s) filed on   is/are: a)   accepted or b)   objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)   The proposed drawing correction filed on   is: a)   approved by   the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)   The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)   All b)   Some * c)   None of:  1.   Certified copies of the priority documents have been received.  2.   Certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in Application No  41)   Acknowledgment is made of a claim for dome	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
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	Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal					

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1. Claim 1, drawn to a bacterium, classified in class 252, subclass 252.1+.

- II. Claims 2-4, drawn to a method for producing ansamitocin, classified in class 435, subclass 117+.
- 2. The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product.

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter and the search required for one invention is not required for the other invention, thusly the restriction for examination purposes as indicated is proper.
- 4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lilling whose telephone number is (703) 308-2034 and fax number is (703) 308-4242 or SPE Michael Wityshyn whose telephone number is (703) 308-4743. Examiner can be reached Monday-Thursday from about 5:30 A.M. to about 3:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL (703) 308-2034 Art Unit <u>1651</u> August 05, 2002

Dr. Herbert J. Lilling

Primary Examiner

Group 1600 Art Unit 1651